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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|-----------------------------|------------------|
| 10/774,596 | 02/10/2004 | Junichi Yokoyama | 118638 | 8883 |
| 25944 7590 02/01/2007 OLIFF & BERRIDGE, PLC P.O. BOX 19928 ALEXANDRIA, VA 22320 | | | EXAMINER SHAPIRO, LEONID | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2629 | |

| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE | DELIVERY MODE |
|--|------------|---------------|
| 3 MONTHS | 02/01/2007 | PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

| | | | |
|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 10/774,596 | Applicant(s) YOKOYAMA ET AL. | |
| | Examiner Leonid Shapiro | Art Unit 2629 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☒ Claim(s) 4 and 5 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>5-6-04</u> | 6) <input type="checkbox"/> Other: _____ |

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-3, are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-2, 5-6 of U.S. Patent No. 7,027,041 (hereafter, "the '041 patent"). Although the conflicting claims are not identical, they are not patentably distinct from each other because the subject matter claimed in the instant application is fully disclosed in the co-pending application and is covered by the co-pending application since they both are claiming common subject matter, as follows:

Comparison of instant application claims 1-3, to co-pending application claims 1-2, 5, and 6.

| | |
|--|--|
| Instant Application S/N: 10/774,596 1. A presentation device for generating a virtual screen used for performing a pointing operation, comprising: a photographing section of which an angle of view can be adjusted by operating a zoom function and a pan-and-tilt mechanism a monitor for a presenter, displaying an image photographed by the photographing section; and | US Patent No. 7,027,041 1. A presentation system comprising: ...an indication mark for setting a virtual screen near a user and for being used by the user to operate a point on the virtual screen; a photographing device that photographs the virtual screen and the indication mark; claim 3: the photographing device comprises a zoom function claim 2: automatic angle change mechanism ...a screen device that displays an image (from line 2); |
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|---|---|
| <p>a control section,</p> <p>wherein a mark for generating the virtual screen is set on a photographing range of the photographing section or the monitor, a virtual screen area having a predetermined size is set within the angle of view of the photographing section based on the mark, and the control section generates XY coordinates of the virtual screen on the virtual screen area.</p> | <p>an arithmetic operation device that calculates coordinates of the indication mark on the virtual screen based on a photographed image of the virtual screen and the indication mark photographed by the photographing device;</p> <p>claim 6: wherein the indication mark is used to identify reference points within the coordinate space which are photographed by the photographing unit, the output of the photographing unit providing input to the arithmetic operating device to generate defining a rectangularly bounded coordinate space based on the identified reference points.</p> |
|---|---|

2.

the mark is composed of a frame-like image of which the position and the size displayed on the monitor is fixed or adjustable, and the virtual screen area is made to correspond with the frame-like image, whereby the virtual screen area is set.

3.

the mark is composed of a light spot irradiated approximately on an object, and the virtual screen area is set by using the light spot photographed by the photographing section as a reference point.

6.

the indication mark is used to identify reference points within the coordinate space which are photographed by the photographing unit.

5.

the indication mark produced by a light emitter

6.

the indication mark is used to identify reference points within the coordinate space which are photographed by the photographing unit

The primary differences between the claims are as follows:

Claim 1, line 1 of the instant application includes the phrase "... a virtual screen", while claim 1 line 3 of the '041 patent recites "an indication mark for setting a virtual screen." This difference in wording is not essential to the instant application because it would have been obvious that an indication mark is an object being displayed, and hence is a display.

Claim 1, line 5 of the instant application includes the phrase "...and pan-and-tilt mechanism". Meanwhile, claim 2 of the '041 patent recites "...an automatic angle change mechanism...". This difference is not essential to the instant application because it would have been obvious that projecting pan-and-tilt mechanism is similar to an automatic angle change mechanism.

Claim 1, line 10 of the instant application includes the phrase "...within the angle of view of photographing section based on mark..." Meanwhile, claim 1, lines 17-18 of the '041 patent recites, "...wherein the user sets two arbitrary reference points..." This difference in wording is not essential to the instant application because it would have been obvious in the '041 patent that the image of the user projected on the screen is set within the angle of view of photographing section based on mark.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention that the different wording of the elements in the '041 patent were not essential to distinguish it from the instant application.

Allowable Subject Matter

2. Claims 4-5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Relative to claim 4 the major difference between the teaching of the prior art of record ("the '041 patent") and the instant invention is that the mark is composed of an indication point or two diagonal indication points indicated on the monitor, and the virtual screen area of which the indication point or the diagonal indication points are used as one or two reference points is set within the angle of view of the photographing section based on the indication point or the diagonal indication points.

Relative to claim 5 the major difference between the teaching of the prior art of record ("the '041 patent") and the instant invention is that a distance from the photographing section to the light spot is measured, and the virtual screen area is set within the angle of view of the photographing section based on the measured distance.

Telephone Inquire


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leonid Shapiro whose telephone number is 571-272-7683. The examiner can normally be reached on 8 a.m. to 5 p.m..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Hjerpe can be reached on 571-272-7691. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LS
01.20.07



RICHARD HJERPE
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